

110TH CONGRESS
1ST SESSION

S. 1968

To provide for security at public water systems and publicly owned treatment works.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2007

Mr. INHOFE (for himself, Mr. ALLARD, Mr. VITTER, and Mrs. DOLE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To provide for security at public water systems and publicly owned treatment works.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Water Security Act
5 of 2007”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ADMINISTRATOR.—The term “Adminis-
9 trator” means the Administrator of the Environ-
10 mental Protection Agency.

1 (2) COMMUNITY WATER SYSTEM.—The term
2 “community water system” has the meaning given
3 the term in section 1401 of the Safe Drinking Water
4 Act (42 U.S.C. 300f).

5 (3) DISRUPTION OF SERVICE EVENT.—The
6 term “disruption of service event” means a natural
7 disaster or event, or a terrorist attack or other in-
8 tentional or accidental harmful act, that—

9 (A) substantially disrupts the ability of a
10 treatment works or community water system to
11 provide safe and reliable—

12 (i) conveyance and treatment of
13 wastewater;

14 (ii) disposal of effluent;

15 (iii) storage of any potentially haz-
16 ardous chemical used to treat wastewater
17 or drinking water; or

18 (iv) distribution of drinking water;

19 (B) damages critical infrastructure associ-
20 ated with a treatment works or community
21 water system;

22 (C) has a substantial adverse effect on the
23 environment as a result of harm caused to a
24 treatment works or community water system; or

(D) otherwise poses a significant threat to public health or safety as a result of harm caused to a treatment works or community water system.

(4) TREATMENT WORKS.—The term “treatment works” has the meaning given the term in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292).

SEC. 3. TREATMENT WORKS AND COMMUNITY WATER SYSTEMS SECURITY.

(a) DEFINITIONS.—In this section:

(1) EMERGENCY RESPONSE PLAN.—

(A) IN GENERAL.—The term “emergency response plan” means a plan or set of plans developed by or in cooperation with a treatment works or community water system that may include the procedures the treatment works or community water system will use when a disruption of service event occurs, including procedures for ensuring continued service and protection of the public health and environment.

(B) INCLUSIONS.—

(i) PUBLICLY OWNED TREATMENT WORKS.—With respect to a publicly owned treatment works, the term “emergency re-

sponse plan” includes a plan or set of plans that may describe, for a case in which a disruption of service event occurs—

(I) the means by which a publicly owned treatment works will provide information regarding risks to—

(aa) the media;

(bb) municipal emergency personnel;

(cc) health officials;

(dd) the general public;

(ee) Federal and State environmental authorities; and

(ff) other potentially impacted water utilities;

(II) the means by which a publicly owned treatment works will limit contamination of public water supplies, including temporary treatment and other mitigation measures;

(III) the means by which a publicly owned treatment works will address contaminants entering the treatment works or its collection system,

1 including any contaminants added by
2 emergency response personnel in re-
3 sponding to a natural disaster or ter-
4 rorist event;

5 (IV) the means by which a pub-
6 licly owned treatment works will se-
7 cure backup generation if a loss of
8 power accompanies the disruption of
9 service event; or

10 (V) any additional means of col-
11 lecting or treating wastewater.

12 (ii) COMMUNITY WATER SYSTEM.—

13 With respect to a community water sys-
14 tem, the term “emergency response plan”
15 includes the elements described in section
16 1433(b) of the Safe Drinking Water Act
17 (42 U.S.C. 300i–2(b)).

18 (C) CERTAIN OTHER PLANS.—The term
19 “emergency response plan” may include—

20 (i) an emergency response plan con-
21 ducted in accordance with a Federal stat-
22 ute that addresses each element identified
23 under subparagraphs (A) and (B); and

24 (ii) an emergency response plan in ex-
25 istence on the date of enactment of this

1 Act that is modified to include each ele-
 2 ment identified under subparagraphs (A)
 3 and (B).

4 (2) SITE SECURITY PLAN.—The term “site se-
 5 curity plan” means a plan for risk reduction or any
 6 other plan to implement, to the maximum extent
 7 practicable, changes at a treatment works or com-
 8 munity water system based on information in a vul-
 9 nerability assessment to address risks posed by a
 10 disruption of service event.

11 (3) VULNERABILITY ASSESSMENT.—

12 (A) TREATMENT WORKS.—

13 (i) IN GENERAL.—With respect to a
 14 treatment works, the term “vulnerability
 15 assessment” means an assessment of the
 16 vulnerability of a treatment works to a dis-
 17 ruption of service event.

18 (ii) INCLUSIONS.—With respect to a
 19 treatment works, the term “vulnerability
 20 assessment” may include—

21 (I) a characterization of the
 22 treatment works, including, with re-
 23 spect to the treatment works—

24 (aa) mission and objective;

25 (bb) customer base;

- 1 (cc) the facilities that com-
2 prise the treatment works, in-
3 cluding—
- 4 (AA) the collection sys-
5 tem;
6 (BB) the pumping sta-
7 tion;
8 (CC) the power supply;
9 (DD) electronic and
10 computer systems; and
11 (EE) chemical con-
12 tainers;
13 (dd) processes; and
14 (ee) assets for achieving
15 treatment works objectives;
- 16 (II) an identification and
17 prioritization of adverse consequences
18 to avoid at the treatment works, in-
19 cluding—
- 20 (aa) substantial disruptions
21 of service;
22 (bb) economic impacts;
23 (cc) loss of life; and

1 (dd) negative health con-
2 sequences for staff at the treat-
3 ment works;

4 (III) an identification of adverse
5 consequences to the public health and
6 safety and the environment and nat-
7 ural resources;

8 (IV) a determination of critical
9 assets of the treatment works that
10 may be subject to a disruption of serv-
11 ice event, including—

12 (aa) pumping stations;

13 (bb) power sources;

14 (cc) electronic and computer
15 systems; and

16 (dd) disinfection processes;

17 (V) an assessment of—

18 (aa) the qualitative prob-
19 ability of a disruption of service
20 event; and

21 (bb) whether the disruption
22 of service event is the result of a
23 natural or an intentional occur-
24 rence;

1 (VI) an evaluation of existing
 2 countermeasures relating to the treat-
 3 ment works; and

4 (VII) an analysis of current risk
 5 relating to the treatment works and
 6 the development of a prioritized plan
 7 for risk reduction at the treatment
 8 works.

9 (B) COMMUNITY WATER SYSTEM.—With
 10 respect to a community water system, the term
 11 “vulnerability assessment” means an assess-
 12 ment conducted in accordance with section
 13 1433(a) of the Safe Drinking Water Act (42
 14 U.S.C. 300i–2(a)).

15 (b) GRANTS FOR VULNERABILITY ASSESSMENTS AND
 16 SECURITY ENHANCEMENTS.—The Administrator may
 17 provide grants to any State, municipality, intermunicipal
 18 or interstate agency, or privately owned utility that prin-
 19 cipally treats municipal wastewater, or that principally
 20 provides municipal drinking water—

21 (1) to conduct or update a vulnerability assess-
 22 ment of a publicly owned treatment works or a com-
 23 munity water system;

1 (2) to implement security enhancements to re-
2 duce vulnerabilities identified in a vulnerability as-
3 sessment;

4 (3) for the development, expansion, or upgrad-
5 ing of an emergency response plan and site security
6 plan; and

7 (4) for the voluntary creation by a State or net-
8 work of treatment works of, or voluntary participa-
9 tion by a treatment works or community water sys-
10 tem in, a mutual aid and emergency network pre-
11 paredness agreement developed in accordance with
12 the National Incident Management System estab-
13 lished pursuant to presidential directive number 5 of
14 the Department of Homeland Security.

15 (c) GRANTS FOR SECURITY ENHANCEMENTS.—

16 (1) SECURITY ENHANCEMENTS.—On certifi-
17 cation by a State, municipality, intermunicipal or
18 interstate agency, or privately owned utility that
19 principally treats municipal wastewater that a vul-
20 nerability assessment has been completed for a
21 treatment works, and that the security enhancement
22 for which assistance is sought is for the purpose of
23 reducing vulnerabilities of the treatment works iden-
24 tified in the vulnerability assessment, the Adminis-
25 trator may provide grants under this subsection to

1 the State, municipality, intermunicipal or interstate
2 agency, or privately owned utility.

3 (2) COMMUNITY WATER SYSTEM GRANTS.—

4 (A) IN GENERAL.—On certification by the
5 owner or operator of a community water system
6 that a vulnerability assessment has been con-
7 ducted for the community water system in ac-
8 cordance with section 1433(a) of the Safe
9 Drinking Water Act (42 U.S.C. 300i–2(a)), and
10 that the security enhancement for which assist-
11 ance is sought is for the purpose of reducing
12 vulnerabilities of the community water system
13 identified in the vulnerability assessment, the
14 Administrator may provide a grant under this
15 section for the community water system.

16 (B) TREATMENT OF CERTAIN CERTIFI-
17 CATION.—A certification provided to the Ad-
18 ministrator under section 1433 of the Safe
19 Drinking Water Act (42 U.S.C. 300i–2) shall
20 be considered to satisfy the certification re-
21 quirement under subparagraph (A).

22 (3) JOINT WASTEWATER AND DRINKING WATER
23 FACILITIES.—A facility that is both a treatment
24 works and a community water system may—

1 (A) conduct a single assessment of both
2 the facilities; and

3 (B) submit a single certification to meet
4 the requirements of paragraphs (1) and (2).

5 (4) LIMITATIONS.—

6 (A) USE OF FUNDS.—A grant provided
7 under this subsection or subsection (b) shall not
8 be used for—

9 (i) payment of personnel costs; or

10 (ii) operation or maintenance of facili-
11 ties, equipment, or systems.

12 (B) DISCLOSURE OF VULNERABILITY AS-
13 SESSMENT.—

14 (i) IN GENERAL.—Except as provided
15 in clause (ii), as a condition of applying for
16 or receiving a grant under this subsection,
17 the Administrator may not require an ap-
18 plicant to provide the Administrator with a
19 copy of a vulnerability assessment.

20 (ii) EXCEPTION.—To ensure compli-
21 ance with any applicable Federal grant re-
22 quirement, the Administrator or a designee
23 of the Administrator—

24 (I) may request and view a copy
25 of a vulnerability assessment associ-

1 ated with a grant under this section;
2 but

3 (II) shall not take possession or
4 control of the copy.

5 (C) RESPONSIBILITY OF ADMINIS-
6 TRATOR.—Not later than December 31, 2008,
7 the Administrator, in consultation with appro-
8 priate Federal law enforcement and intelligence
9 officials, shall incorporate into existing proto-
10 cols for protection of sensitive information a
11 method by which the Administrator will protect
12 from unauthorized disclosure vulnerability as-
13 sessment information viewed by the Adminis-
14 trator or a designee of the Administrator pursu-
15 ant to subparagraph (B)(ii).

16 (D) PENALTIES.—

17 (i) IN GENERAL.—Except as provided
18 in clause (ii), any individual who views a
19 vulnerability assessment, a reproduction of
20 a vulnerability assessment, or any informa-
21 tion derived from a vulnerability assess-
22 ment, pursuant to subparagraph (B)(ii)
23 and who knowingly or recklessly reveals
24 the vulnerability assessment, reproduction,
25 or information other than to the Adminis-

1 trator or an individual designated by the
 2 Administrator, or for use in an administra-
 3 tive or judicial proceeding to impose a pen-
 4 alty for failure to comply with this section,
 5 shall, on conviction—

6 (I) be imprisoned for not more
 7 than 1 year or fined in accordance
 8 with chapter 227 of title 18, United
 9 States Code, as applicable to class A
 10 misdemeanors, or both; and

11 (II) be removed from Federal of-
 12 fice or employment.

13 (ii) EXCEPTION.—Notwithstanding
 14 clause (i), a designee of the Administrator
 15 who is an officer or employee of the United
 16 States may discuss with any State or local
 17 government official the contents of a vul-
 18 nerability assessment viewed under this
 19 paragraph.

20 (E) EFFECT OF PARAGRAPH.—Nothing in
 21 this paragraph authorizes any person to with-
 22 hold any information from Congress or any
 23 committee or subcommittee of Congress.

24 (5) FALSE CERTIFICATIONS.—An applicant that
 25 knowingly submits to the Administrator a false cer-

1 tification or material statement under this sub-
 2 section shall be subject to a criminal penalty under
 3 section 309(c)(4) of the Federal Water Pollution
 4 Control Act (33 U.S.C. 1319(c)(4)).

5 (6) EXEMPTION UNDER FOIA AND RELATED
 6 LAWS.—Except for information in a certification
 7 under this subsection identifying the system for
 8 which the certification is submitted and the date of
 9 certification of the system, all information contained
 10 in a vulnerability assessment certified by an appli-
 11 cant or derived from a vulnerability assessment
 12 under this section shall be exempt from the disclo-
 13 sure requirements under—

14 (A) section 552 of title 5, United States
 15 Code (commonly known as the “Freedom of In-
 16 formation Act”); and

17 (B) any State or local law providing for
 18 public access to information.

19 (d) GRANT REQUIREMENTS.—

20 (1) FEDERAL SHARE.—The Federal share of
 21 the cost of an activity funded by a grant under sub-
 22 section (b) shall not exceed 50 percent, as deter-
 23 mined by the Administrator.

1 (2) MINIMUM NUMBER OF GRANTS.—The Ad-
 2 ministrators shall ensure that grants under this sec-
 3 tion are provided to more than 1 grant applicant.

4 (e) TECHNICAL ASSISTANCE FOR SMALL PUBLICLY
 5 OWNED TREATMENT WORKS.—

6 (1) DEFINITIONS.—In this subsection:

7 (A) SMALL COMMUNITY WATER SYSTEM.—
 8 The term “small community water system”
 9 means a community water system that services
 10 a population of fewer than 10,000 individuals.

11 (B) SMALL PUBLICLY OWNED TREATMENT
 12 WORKS.—The term “small publicly owned treat-
 13 ment works” means a publicly owned treatment
 14 works that services a population of fewer than
 15 10,000 individuals.

16 (2) SECURITY ASSESSMENT AND PLANNING AS-
 17 SISTANCE.—

18 (A) IN GENERAL.—The Administrator, in
 19 coordination with the States, may provide tech-
 20 nical guidance and assistance to small publicly
 21 owned treatment works and small community
 22 water systems for—

23 (i) the conduct of a vulnerability as-
 24 sessment, emergency response plan, or site
 25 security plan; and

1 (ii) the implementation of security en-
 2 hancements to reduce vulnerabilities identi-
 3 fied in a vulnerability assessment.

4 (B) INCLUSIONS.—Technical guidance and
 5 assistance provided under subparagraph (A)
 6 may include technical assistance programs,
 7 training, and preliminary engineering evalua-
 8 tions.

9 (3) PARTICIPATION BY NONPROFIT ORGANIZA-
 10 TIONS.—The Administrator may provide grants to
 11 nonprofit organizations to assist in accomplishing
 12 the purposes of this subsection.

13 (f) REFINEMENT OF VULNERABILITY ASSESSMENT
 14 METHODOLOGY FOR PUBLICLY OWNED TREATMENT
 15 WORKS AND COMMUNITY WATER SYSTEMS.—

16 (1) GRANTS.—The Administrator may provide
 17 to nonprofit organizations 1 or more grants to be
 18 used in improving vulnerability self-assessment
 19 methodologies and tools for publicly owned treat-
 20 ment works or community water systems.

21 (2) ELIGIBLE ACTIVITIES.—A grant provided
 22 under this subsection may be used—

23 (A) to develop and distribute vulnerability
 24 self-assessment methodology software upgrades;

1 (B) to improve and enhance critical tech-
 2 nical and user support functions;

3 (C) to expand libraries of information ad-
 4 dressing threats and countermeasures; and

5 (D) to implement user training initiatives.

6 (3) COST.—A service described in paragraph
 7 (2) that is funded by a grant under this subsection
 8 shall be provided at no cost to the recipients of the
 9 service.

10 (g) TRAINING GRANTS.—

11 (1) IN GENERAL.—The Administrator may pro-
 12 vide grants to nonprofit organizations to be used in
 13 accordance with paragraph (2) to implement a com-
 14 prehensive training program for—

15 (A) treatment works or privately owned
 16 utilities that principally treat municipal waste-
 17 water; or

18 (B) community water systems.

19 (2) ELIGIBLE ACTIVITIES.—A grant provided
 20 under paragraph (1) may be used—

21 (A) to develop and implement a training
 22 program to assist treatment works and commu-
 23 nity water systems in—

1 (i) conducting vulnerability assess-
2 ments using vulnerability self-assessment
3 methodology software;

4 (ii) developing emergency response
5 plans; and

6 (iii) identifying security enhance-
7 ments; and

8 (B) to develop and disseminate to treat-
9 ment works or community water system infor-
10 mation on best practices for emergency re-
11 sponse plans and security enhancements.

12 (3) COST.—Training and technical assistance
13 provided pursuant to a grant under paragraph (1)
14 shall be provided at no cost to the recipients of the
15 assistance.

16 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
17 authorized to be appropriated—

18 (1) \$200,000,000 for use in making grants
19 under subsection (b), to remain available until ex-
20 pended;

21 (2) \$15,000,000 for use in providing assistance
22 under subsections (e) and (g); and

23 (3) to carry out subsection (f), \$1,000,000 for
24 each of fiscal years 2007 through 2011.

1 **SEC. 4. RESEARCH AND REVIEW OF COLLECTION SYSTEMS**
2 **AND DISTRIBUTION SYSTEMS.**

3 (a) DEFINITIONS.—In this section:

4 (1) COLLECTION SYSTEM.—The term “collec-
5 tion system” means the underground network of
6 sewers, including sanitary and storm water collection
7 lines.

8 (2) DISTRIBUTION SYSTEM.—The term “dis-
9 tribution system” means the underground network
10 of pipes that deliver drinking water from a commu-
11 nity water system to consumers.

12 (b) RESEARCH AND REVIEW.—The Administrator, in
13 consultation with appropriate Federal agencies, shall con-
14 duct research and a review, or enter into a contract or
15 cooperative agreement for the conduct of research and a
16 review, of—

17 (1) means of providing alternative processes to
18 convey, treat, and dispose of wastewater if a disrup-
19 tion of service event occurs;

20 (2) in coordination with assessments carried out
21 under section 1434 of the Safe Drinking Water Act
22 (42 U.S.C. 300i–3), the means of providing alter-
23 native processes to treat and deliver drinking water
24 if a disruption of service event occurs;

25 (3) the means by which the collection system of
26 a treatment works could—

1 (A) be used to convey hazardous chemicals
2 or substances (including explosive devices), in-
3 cluding a comprehensive analysis of the types of
4 hazardous chemicals, substances, and explosive
5 devices that could be placed in the collection
6 system; and

7 (B) be secured to prevent and respond to
8 an intentional harmful act;

9 (4) the means by which a distribution system of
10 a community water system could be compromised to
11 allow the delivery of any hazardous chemical or sub-
12 stance;

13 (5) methods for monitoring—

14 (A) the collection systems of treatment
15 works and the distribution systems of commu-
16 nity water systems for hazardous chemicals or
17 substances, including explosive devices; and

18 (B) unauthorized entry into the collection
19 systems of treatment works and the distribution
20 systems of community water systems; and

21 (6) strategies for recovery from, and restoration
22 of services after, a disruption of service event.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to carry out this section
3 \$5,000,000 for each of fiscal years 2007 through 2011.

○